

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JAMES STILE,)	
)	
Plaintiff,)	
)	
v.)	2:14-cv-00406-JAW
)	
CUMBERLAND COUNTY)	
SHERIFF, et al.,)	
)	
Defendants.)	

ORDER TO SHOW CAUSE

On April 22, 2015, the Court issued its Order on Defendant Darling, requiring counsel for Cumberland County to make an effort to determine further information about Defendant Darling and to notify the Court. *Order on Def. Darling* (ECF No. 31). In compliance with this Order, Attorney Peter T. Marchesi filed a letter with the Court on April 24, 2015, confirming that Defendant Darling is Michael A. Darling, that he resigned from his position at the Cumberland County Jail, and that he is currently in the military in Kuwait on active duty on his way to Afghanistan, where he will be deployed for one year. *Letter from Att’y Marchesi to United States Dist. Ct.* (ECF No. 32).

Under 50 U.S.C. app. § 521(d) of the Servicemembers Civil Relief Act of 2003 (SCRA), when a defendant is engaged in military service and has not appeared in the action, “the court shall grant a stay of proceedings for a minimum period of 90 days . . . upon application of counsel, or on the court’s own motion, if the court determines that[:] (1) there may be a defense to the action and a defense cannot be presented

without the presence of the defendant; or (2) after due diligence, counsel has been unable to contact the defendant or otherwise determine if a meritorious defense exists.” *Id.* § 521(d)(1)-(2); *see also United States v. 4.3 Acres of Land, More or Less, Situated in Aroostook Cnty.*, No. 1:11-cv-00177-JAW, *Order on Mot. to Lift Stay* (ECF No. 44) (*Bridgewater Order*) (discussing this provision).

When a servicemember has not entered an appearance, the Court is required to follow the provisions of 50 U.S.C. app. § 521. The Court must determine whether the defendant is in fact in the military, a fact Attorney Marchesi represented is correct in this case. 50 U.S.C. app. § 521(b). Also, “[i]f in an action covered by this section it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant.” *Id.* § 521(b)(2). This has not been done in this case.

In enacting the SCRA, Congress described its purposes:

The purposes of this Act are - - (1) to provide for, strengthen, and expedite the national defense through protection extended by this Act to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and (2) to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.

Id. § 502. In *Boone v. Lightner*, 319 U.S. 561 (1943), addressing the SCRA’s predecessor statute, the United States Supreme Court explained:

The Soldiers’ and Sailors’ Civil Relief Act is always to be liberally construed to protect those who have been obliged to drop their own affairs to take up the burdens of the nation. The discretion that is vested in trial courts to that end is not to be withheld on nice calculations as to whether prejudice may result from absence, or absence result from the service. Absence when one’s rights or liabilities are being adjudged is

usually *prima facie* prejudicial. But in some few cases absence may be a policy, instead of the result of military service, and discretion is vested in the courts to see that the immunities of the Act are not put to such unworthy use.

Id. at 575. The Supreme Court concluded that the protection of this Act extends to all military personnel on active duty, including career personnel. *Conroy v. Aniskoff*, 507 U.S. 511, 515 (1993).

In general, when a defendant is in active military service, courts have typically stayed the proceedings as to that defendant until the servicemember is released from active duty and is able to defend himself or herself. *See Bridgewater Order* at 7-8; *Compos v. Steen*, No. 2:08-cv-00748-LRH-PAL, 2010 U.S. Dist. LEXIS 56306, at *4 (D. Nev. May 12, 2010) (staying proceedings until the servicemember “can meaningfully participate in the litigation”); *Jaramillo v. Bexar Cnty.*, No. SA-09-cv-0656 XR (NN), 2010 U.S. Dist. LEXIS 13048, at *4-5 (W.D. Tex. Feb. 12, 2010) (recommending that the case be stayed until the servicemember “is released from active duty”); *Flagstar Bk., FSB v. Pemberton*, No. 1:09-cv-00029, 2010 U.S. Dist. LEXIS 23368, at *9 (D.V.I. Mar. 11, 2010) (staying foreclosure against servicemember “until thirty (30) days after [the servicemember] returns from active service or until further order of the Court”).

To give Mr. Stile an opportunity to object to the issuance of a stay until Mr. Darling is released from active service, the Court ORDERS James Stile to respond to this Order to Show Cause within fourteen (14) days of the date of this Order as to why the Court should not order a stay in these proceedings as against Defendant Michael A. Darling until he is released from active service. Of course, if Mr. Stile

elects to do so, he may—if he wishes—dismiss his claims against Defendant Darling and proceed against the remaining served Defendants. How to respond to this Order to Show Cause is a matter for Mr. Stile to decide, but he must inform the Court within fourteen days of the date of this Order.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 27th day of April, 2015

Plaintiff

JAMES STILE

represented by **JAMES STILE**
MAINE STATE PRISON
807 CUSHING RD
WARREN, ME 04864
PRO SE

V.

Defendant

**CUMBERLAND COUNTY
SHERIFF**

represented by **PETER T. MARCHESI**
WHEELER & AREY, P.A.
27 TEMPLE STREET
P. O. BOX 376
WATERVILLE, ME 04901
873-7771
Email: pbear@wheelerlegal.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER
WHEELER & AREY, P.A.
27 TEMPLE STREET
P. O. BOX 376
WATERVILLE, ME 04901
207-873-7771

Email: cshaffer@wheelerlegal.com
ATTORNEY TO BE NOTICED

Defendant

MAJOR BRETON

*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER

(See above for address)

ATTORNEY TO BE NOTICED

Defendant

CORRECTIONS OFFICER

DARLING

*Individually and in his official
capacity*

Defendant

CORRECTIONS OFFICER

ABROL

*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER

(See above for address)

ATTORNEY TO BE NOTICED

Defendant

CORRECTIONS OFFICER

PURINGTON

*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER

(See above for address)

ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER
LOGAN**

*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER
YOUNG**

*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER
HARRIMAN**

*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER
PANENKA**

*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER DEL
ROSSI**

represented by **PETER T. MARCHESI**
(See above for address)

*Individually and in his official
capacity*

*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER
SLOCUM**
*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER
STOTTS**
*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER
PHILLIPS**
*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

STANLEY PICNIC
*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER
MITCHELL**
*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER
ARLENE JACQUES**
*Individually and in her official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER
RENNA**
*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER
PICKERING**
*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER

(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER
LEBLANC**

*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER
BISSON**

*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**CORRECTIONS OFFICER
DUBOIS**

*Individually and in his official
capacity*

represented by **PETER T. MARCHESI**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

CUMBERLAND COUNTY

represented by **PETER T. MARCHESI**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER
(See above for address)
ATTORNEY TO BE NOTICED

